

2. Pacific will provide Enhanced 9-1-1 (E9-1-1) service to MFS at the following rates and charges:

| <u>Service</u> | <u>Non-Recurring Charge</u> | <u>Monthly Rate</u> |
|--|-----------------------------|---|
| Network | | |
| • CAMA Trunk (Minimum of 2 trunks required) | \$741 (per trunk) | \$26 (per trunk) \$2 per mile (per trunk) |
| Data Management | | |
| • E9-1-1 Tandem Switching (per 1,000 records) | | \$15 |
| • Data Management Support and storage, selective routing, and ALI retrieval (per 1,000 records) | | \$99 |
| • Manual Input of MFS subscriber records (per 100 records input in a one month period) | \$342 | |
| • Error Correction of MFS subscriber records (per record) | \$3.50 | |
| • Charge for MSAG (per County/per sort) | \$60 | |
| • ACES Card Management (per card) | | \$6 |
| • ACES Card replacement (lost or stolen) | \$140 | |

3. Pacific will provide MFS with an electronic interface from which MFS may input and update subscriber records. To the extent this electronic interface is not available by February 1, 1996, Pacific will waive any charges associated with manual input of subscriber records until such time as the interface is made available.
4. Pacific and MFS will work cooperatively to arrange meetings with PSAPs to answer any technical questions the PSAPs or County coordinators may have regarding the E9-1-1 portions of this agreement.

B. Transfer of Service Announcements

When an end user customer changes from Pacific to MFS, or from MFS to Pacific, and does not retain its original telephone number, the Party formerly providing service to the end user will provide a transfer of service announcement on the abandoned telephone number. Each Party will provide this referral service consistent with its tariff. This announcement will provide details on the new number to be dialed to reach this customer.

C. Coordinated Repair Calls

MFS and Pacific will employ the following procedures for handling misdirected repair calls:

1. MFS and Pacific will educate their respective customers as to the correct telephone numbers to call in order to access their respective repair bureaus.
2. To the extent the correct provider can be determined, misdirected repair calls will be referred to the proper provider of local exchange service in a courteous manner, at no charge, and the end user will be provided the correct contact telephone number. In responding to repair calls, neither Party shall make disparaging remarks about each other, nor shall they use these repair calls as the basis for internal referrals or to solicit customers to market services. Either Party may respond with accurate information in answering customer questions.
3. MFS and Pacific will provide their respective repair contact numbers to one another on a reciprocal basis.

D. Busy Line Verification and Interrupt

1. Description
 - a. Each Party shall establish procedures whereby its operator bureau will coordinate with the operator bureau of the other Party in order to provide Busy Line Verification ("BLV") and Busy Line Verification and Interrupt ("BLVI") services on calls between their respective end users.

- b. BLV and BLVI inquiries between operator bureaus shall be routed over the LISA and JANE trunks.

2. Compensation

Each Party shall charge the other Party for BLV and BLVI at the rates contained in Pacific's CPUC tariff 175-T.

E. Directory Assistance (DA)

1. Description

At MFS' request, Pacific will:

- a. Provide to MFS over the LISA trunks unbranded directory assistance service which is comparable in every way to the directory assistance service Pacific makes available to interexchange carriers.
- b. In conjunction with sub-paragraph (a) above, provide caller-optional directory assistance call completion service which is comparable in every way to the directory assistance call completion service Pacific generally makes available to its own end users, to the extent Pacific generally offers such service to its end users.

2. Compensation

Pacific shall charge MFS for DA services at the rates contained in Pacific's CPUC tariff 175-T.

F. Directory Listings and Directory Distribution

The terms specified in this section shall apply to MFS customer numbers falling within NXX codes directly assigned to MFS, and to MFS customer telephone numbers which are retained by MFS pursuant to SPNP as described in Section IX.

- 1. Pacific publishes and distributes white pages directories through its wholly owned subsidiary, Pacific Bell Directory (PBD), which acts as its agent for the white pages. PBD also publishes and distributes yellow pages directories which PBD owns. Pacific and PBD will deal with subscribers of MFS on the same basis and in the identical manner as they deal with subscribers of Pacific respecting inclusion in and delivery of white and yellow pages directories (including all hard copy and electronic directories). Respecting inclusion in white pages directories, the Parties shall use their best reasonable efforts to develop and implement a process whereby MFS will be able to review and correct proofs of its customers' white pages listings in advance of directory publication. Respecting inclusion in and delivery of yellow pages directories, PBD will not discriminate against subscribers of MFS who seek advertising in the yellow pages by reason of their affiliation with MFS, but with respect to these subscribers, PBD will**

use the same criteria in determining whether or not to publish advertisements and listings in the yellow pages as it uses for its other customers or potential customers for advertising.

By reason of this agreement, PBD assumes no liability toward MFS or toward any of its subscribers for errors in or omissions of advertisements or listings in the above-mentioned directories. PBD's liability, if any, for such errors or omissions shall be governed solely by its separate contracts with its individual customers, and shall be determined for MFS customers on the same basis as is the case for Pacific's customers. There are no third party beneficiaries to this agreement with respect to the commitments made on behalf of PBD herein.

Pacific will work cooperatively with MFS to ensure that Yellow Page advertisements purchased by customers who switch their service to MFS (including customers utilizing MFS-assigned telephone numbers and MFS customers utilizing SPNP) are maintained without interruption.

The services described in this sub-paragraph (1) will be provided without charge, provided Pacific's standard charges or tariff rates for white page or yellow page listings or advertising options not described in this sub-paragraph (1) shall apply for such services.

- 2. MFS will provide Pacific with its directory listings and daily updates to those listings in an industry-accepted format; Pacific will include MFS' customers in directory assistance databases associated with**

the areas in which MFS provides Exchange Services to such customers. Pacific will provide MFS with the proper format which MFS shall employ in submitting directory listings and daily updates.

3. MFS and Pacific will accord MFS' directory listing information the same level of confidentiality which Pacific accords its own directory listing information, and Pacific shall ensure that access to MFS' customer proprietary confidential directory information will be limited solely to those Pacific employees who are directly involved in the preparation of listings.

G. Information Pages - Customer Guide Pages

Pacific will include in the "Information Pages" or comparable section of its White Pages Directories for areas served by MFS, listings provided by MFS for MFS' installation, repair and customer service and other service oriented information including appropriate identifying logo. Such listings shall appear in the manner and likeness as such information appears for Pacific and other LECs or CLCs. Reasonable non-discriminatory charges per page (or fraction of a page; limit of no more than one full page in a directory) will apply for this service, as identified in Pacific's CPUC 175T tariff, Section 9.2.6. To the extent this service is required prior to effectiveness of an appropriate CLC rate, the rate currently listed for long distance company provision of similar information shall apply.

H. Information Services Billing and Collection

- 1. MFS shall deliver calls originated over MFS-provided Exchange Services to Pacific's information services platform (e.g., 976) by routing such traffic over the LISA trunks. MFS retains the right to block such calls.**
- 2. For the calls identified in sub-paragraph H (1) above, MFS will provide an electronic file transfer or daily or monthly magnetic tape containing recorded call detail information to Pacific. Pacific will provide on a per call basis the information providers' charge for each such call in the same manner as Pacific would rate the call for its own end users, and in the same manner that Pacific provides such rated information to other LECs. Pacific will return the rated calls to MFS via tape or electronic file transfer for billing to MFS' end user customers. MFS will bill and collect such end user charges, and remit the amounts collected to Pacific, less \$.05 per call. MFS will identify any end user customer adjustments (calls where end users deny responsibility) and Pacific will credit such adjustments.**

VIII. LINK SERVICE ARRANGEMENTS

A. Description

Pacific shall, effective April 1, 1996, provide Basic Links to MFS. Pacific shall make the following quantities available to MFS, irrespective of any other carrier's demand: for the month of April, 1000 Basic Links; for the

month of May, 1500 Basic Links; for the month of June, 2000 Basic Links; for the month of July, 3000 Basic Links; and for the month of August, 5000 Basic Links. Beginning September, 1996 Links can be ordered through Pacific's mechanized ordering process and the only quantity limitation is that no more than 30,000 Links can be provided to MFS during calendar year 1996. ISDN Links will be available beginning October 1, 1996. Testing of Basic Links and Basic Link ordering procedures will begin February 21, 1996 to the extent those ordering procedures are available.

1. Links may be interconnected to collocated transport facilities maintained or designated by MFS via an EISCC service.
2. The installation, maintenance, and repair intervals for Links will be comparable to the current installation, maintenance, and repair intervals offered on Pacific's local exchange services in the applicable geographic area, and shall be guided by the following guidelines. Pacific will provide MFS with cable and pair information on the MPOE at the customer's premise sufficient to allow MFS to connect to customer premise wiring. A Business Basic Link can be provisioned within the same period of time Pacific provisions its 1MB service requiring field work (wiring), plus one day; 1MB service is normally provisioned within 3-5 days. For a Residence Basic Link, the interval shall be the same applicable to 1FR service requiring field work (wiring), within the applicable geographic area, plus one day. For project type work (e.g., 100 lines at the same location), provisioning intervals can be substantially greater (e.g., 12 days) than those that apply to 1MB

service. Unless otherwise agreed, provisioning will occur during normal business hours, and work requested by MFS out of normal business hours will result in additional charges, as specified in Pacific's CPUC Tariff 175-T, Section 13.2.6 (A). In addition, coordination on Link installation shall be performed in the following manner:

- a) The non-recurring charge for Basic Links includes all charges for order entry, installation, and cross-connection to the MFS EIS;**
- b) The following coordination procedures apply only to Business Basic Links ordered in Zone 1: On each Link order in a wire center, MFS and Pacific will agree on a cutover time at least 48 hours before that cutover time. The cutover time will be defined as a 30 minute window within which both the MFS and Pacific personnel will make telephone contact to complete the cutover.**

Within the appointed 30 minute cutover time, the MFS person will call the Pacific person designated to perform cross-connection work and when the Pacific person is reached in that interval such work will be promptly performed. If the MFS person fails to call or is not ready

within the appointed interval and if MFS had not called to reschedule the work at least 2 hours prior to the start of the interval, Pacific and MFS will reschedule the work order and MFS will pay the non-recurring charge for the Link or Links scheduled for the missed appointment. In addition, non-recurring charges for the rescheduled appointment will apply. If the Pacific person is not available or not ready at any time during the 30 minute interval, MFS and Pacific will reschedule and Pacific will waive the non-recurring charge for the Link or Links scheduled for that interval. The standard time expected from disconnection of service on a line to the connection of the Link to the MFS EIS is 5 minutes. If Pacific causes a line to be out of service due solely to its failure for more than 15 minutes, Pacific will waive the non-recurring charge for that Link. If unusual or unexpected circumstances prolong or extend the time required to accomplish the coordinated cut-over, the Party responsible for such circumstances is responsible for the reasonable labor charges of the other Party. Delays caused by the customer are the responsibility of MFS. In addition, if MFS has ordered DNCF as part of the Link installation, Pacific will coordinate implementation of DNCF with the Link

installation; provided, separate DNCF installation charges will apply.

- c. For Business Links in Zones 2 and 3, and all Residence Links in Zones 1, 2, and 3, Pacific's intrastate CPUC 175-T, Section 13.2.6 (C) rates and terms will apply for service coordination.
 - d. If the Commission has established rates and service terms in its OANAD proceeding for installation and coordination of Basic Links by January 1, 1997, then those non-recurring rates and service terms shall be applied in lieu of the non-recurring rates and service terms specified in this section VIII.A.2. If the Commission has not established such rates and service terms by January 1, 1997, the non-recurring rates and service terms in this section VIII.A.2 shall continue to apply until the Commission establishes different non-recurring rates and service terms.
3. In the case of service to existing Pacific customers that are becoming MFS customers for which MFS is using Pacific's Link service, MFS can submit a single order disconnecting the existing service (so long as a customer agency letter is provided), ordering of the Link, and request for DNCF, all through Pacific's CESAR ordering system. Separate internal processes within Pacific will

apply to the disconnect of existing service, establishment of the Link, and completion of DDCF order.

4. Pacific will bill all Links purchased by MFS (either directly or by previous assignment by a customer) on two consolidated statements in the following manner. Links will be listed by a circuit identification number on the bill, along with a wire center identification and customer premise street address. The bill will issue on a "bill round" once each month and MFS will be permitted to select one of three bill rounds. MFS will have to establish separate billing accounts for Southern and Northern California.
5. Pacific will permit MFS to collocate facilities on the same basis that such facilities are placed today under Pacific's EIS tariffs.
6. Beginning September 1, 1996, Pacific will provide MFS with an appropriate on-line electronic interface by which MFS may place, verify and receive confirmation of orders for Links, and issue and track trouble-ticket and repair requests associated with Links.

B. Compensation

Pacific shall charge non-recurring and a monthly recurring rate as set forth below for each Link and EISCC, plus applicable multiplexing, if requested. MFS shall cooperate with Pacific in obtaining a waiver at the FCC for the interstate EUCL and CCL such that it can be charged directly to MFS.

BASIC LINKS

- **Recurring Rates:**

EISCC recurring monthly charge, \$1.31

Basic Link (including EUCL and CCL):

Business

| Zone 1 | Zone 2 | Zone 3 |
|----------------|----------------|----------------|
| \$12.50 | \$14.50 | \$19.50 |

Residence

| Zone 1 | Zone 2 | Zone 3 |
|----------------|----------------|----------------|
| \$13.90 | \$17.00 | \$21.40 |

Business Link Zones are defined as shown in Attachment A; Residence Link Zones are defined as shown in Attachment B

- **Non-recurring rates:**

Business Links Zone 1: Combined non-recurring charge for each Basic Link and a corresponding EISCC: \$70.75. This non-recurring charge covers all work required to establish a working Business Basic Link, including acceptance of the Link order, processing the order, and cross-connecting the Link to the EIS.

Business Basic Links Zones 2 and 3 and Residence Basic Links Zones 1, 2, and 3: \$200 for the first Basic Link, plus \$110 for each additional Basic

Link that is contained on the same order with the same cut-over date for connection at the same end user MPOE.

ISDN LINKS:

- **Recurring Rates:**

EISCC recurring monthly charge, \$1.31

ISDN Link (including EUCL and CCL):

Business

| Zone 1 | Zone 2 | Zone 3 |
|---------|---------|---------|
| \$18.75 | \$21.75 | \$29.25 |

Residence: Rates and availability to be determined in the Commission's OANAD proceeding (R. 93-04-003).

- **Non-recurring rates:**

For both Business and Residence ISDN:

Combined non-recurring charge for each Basic Link and a corresponding EISCC: to be established in the OANAD proceedings and until such charge is established in that proceeding it will be determined on an individual case basis.

IX. SERVICE PROVIDER NUMBER PORTABILITY ARRANGEMENTS

A. Description

Pacific and MFS will provide Service Provider Number Portability ("SPNP") on a reciprocal basis between their networks to enable each of their end user customers to utilize telephone numbers associated with an Exchange Service provided by one Party, in conjunction with an Exchange Service provided by the other Party, upon the coordinated or simultaneous termination of the first Exchange Service and activation of the second Exchange Service.

1. MFS and Pacific will provide reciprocal SPNP immediately upon execution of this agreement via DNCF. DNCF shall operate as follows:

- a. A customer of Party A elects to become a customer of Party B. The customer elects to utilize the original telephone number(s) corresponding to the Exchange Service(s) it previously received from Party A, in conjunction with the Exchange Service(s) it will now receive from Party B. Upon receipt of a signed letter of agency from the customer (and an associated service order) assigning the number to Party B, Party A will implement an arrangement whereby all calls to the original telephone number(s) will be forwarded on a multiple-path basis (if requested) to (a) new telephone number(s) designated by Party B. Party A will route the forwarded traffic to Party B over the LISA or JANE trunks as

if the call was a call which had originated on Party A's network.

- b. Party B will become the customer of record for the original Party A telephone numbers subject to the DNCF arrangements. Party A will provide Party B a single consolidated master billing statement for all collect and billed to 3rd-number calls associated with those numbers, with sub-account detail by retained number. Such billing statement shall be delivered in an agreed upon format via either electronic file transfer, daily magnetic tape, or monthly magnetic tape.
- c. Party A may cancel line-based calling cards and will, as directed by Party B, update its Line Information Database ("LIDB") listings for retained numbers associated with those forwarded numbers.
- d. Within two (2) business days of receiving notification from the customer, Party B shall notify Party A of the customer's termination of service with Party B, and shall further notify Party A as to the Customer's instructions regarding its telephone number(s). Party A will reinstate service to the customer, cancel the DNCF arrangement, or redirect the DNCF arrangement pursuant to the customer's instructions at that time.

3. Pacific and MFS will migrate from DNCF to Permanent Number Portability as soon as practically possible, without interruption of service (to the degree possible) to their respective customers.

B. Compensation

MFS and Pacific shall provide DNCF arrangements to one another at a rate of \$3.25 per number per month, plus any otherwise applicable charges for authorized collect and billed-to-3rd-number billed calls billed to the retained numbers. Additionally, a per number non-recurring charge of \$31.75 shall apply; provided, however, either Party shall have the option of paying \$75 for the first DNCF ordered in each wire center, plus \$8 for each additional DNCF requested with the same order and in the same wire center. Each Party shall, by December 15, 1995, and by December 15 of each subsequent year, notify the other Party of its selection (or change of selection) of the non-recurring charge option for the following year. The selection shall remain in place for the entire subsequent year.

X. RESPONSIBILITIES OF THE PARTIES

- A. Pacific and MFS agree to treat each other fairly, non-discriminatorily, and equally for all items included in this Agreement, or related to the support of items included in this Agreement.
- B. MFS and Pacific will work cooperatively to minimize fraud associated with 3rd-number billed calls, calling card calls, or any other services related to

this Agreement. The parties fraud minimization procedures are to be cost effective and implemented so as not to unduly burden or harm one party as compared to the other.

- C. MFS and Pacific agree to promptly exchange all necessary records for the proper billing of all traffic.**
- D. MFS and Pacific will review engineering requirements on a quarterly basis and establish forecasts for trunk utilization, LISA/JANE trunks, MPB arrangements, E9-1-1, EISCC facility requirements, quantities of DNCF, Links and other services provided under this Agreement. Pacific and MFS will work together to begin providing these forecasts by December 15, 1995. New trunk groups will be implemented as dictated by engineering requirements for both Pacific and MFS. Pacific and MFS are required to provide each other the proper call information (e.g., originated call party number and destination call party number, etc.) to enable each company to bill in a complete and timely fashion.**
- E. The Parties will cooperate by exchanging technical information in order to identify and explore potential solutions to enable MFS to establish unique Rate Centers, or to assign a single NXX code across multiple Rate Centers.**
- F. MFS and Pacific will work jointly and cooperatively in developing and implementing common manual and/or electronic interfaces (including, for example, data elements, data format, and data transmission) from which to place service orders and trouble reports involving the provision of Links, DNCF, Directory Assistance, Directory Listings, E9-1-1, and other**

services included in this Agreement. To the extent reasonable, MFS and Pacific will utilize the standards established by industry fora, such as OBF. Specifically with respect to the data elements in the manual and/or electronic interface to Pacific's Directory Listings, Pacific agrees not to require MFS to enter the exchange name associated with the telephone number assigned to MFS' customer. Where MFS does not supply the exchange name, Pacific will use the MFS customer's telephone number to determine the exchange name to be supplied to Pacific Bell Directory.

XI. TERM

Except as provided herein, MFS and Pacific agree to provide service to each other on the terms defined in this Agreement for a term of two years, and thereafter the Agreement shall continue in force and effect unless and until terminated as provided herein. Either party may terminate this Agreement by providing written notice of termination to the other party, such written notice to be provided at least 60 days in advance of the date of termination; provided, no such termination shall be effective prior to January 1, 1997. In the event of such termination as described herein, for service arrangements made available under this Agreement and existing at the time of termination, those arrangements shall continue without interruption under either a) a new agreement executed by the Parties, b) standard interconnection terms and conditions approved and made generally effective by the Commission, or c) tariff terms and conditions generally available to CLCs; provided, for service arrangements made available under this Agreement and existing at the time of termination, if the standard interconnection terms and conditions or tariff terms and conditions result in the non-terminating Party physically rearranging facilities or incurring programming expense, the non-terminating Party shall be entitled to recover such rearrangement or

programming costs from the terminating Party. By mutual agreement, MFS and Pacific may amend this Agreement to extend the term of this Agreement. Also by mutual agreement, Pacific and MFS may jointly petition the appropriate regulatory bodies for permission to have this Agreement supersede any future standardized agreements or rules such as regulators might adopt or approve.

Notwithstanding the foregoing, neither party may terminate this Agreement unless and to the extent that it is superseded by another agreement or until standard arrangements or general tariff terms and conditions generally available to CLCs are effective.

XI. INSTALLATION

Pacific and MFS shall effectuate all the terms of this agreement by January 1, 1996. By December 15, 1995, MFS and Pacific shall agree upon a detailed implementation plan to begin implementation of LISA and JANE facilities, MBP arrangements, E-911 trunking, and DNCF services. The parties intend that orders for these services will be placed beginning on December 20, 1995, and that such services would be fully operational (consistent with California law) by February 1, 1996. By January 16, 1996 Pacific and MFS shall agree upon a detailed implementation plan to begin implementation of Directory Assistance, Directory Listings, and the ordering, provisioning, and billing systems and processes associated with these systems.

XII. NETWORK MANAGEMENT AND SERVICE MAINTENANCE

MFS and Pacific will work cooperatively to install and maintain a reliable network. MFS and Pacific will exchange appropriate information (e.g., maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the Government, etc.) to achieve this desired reliability.

MFS and Pacific will work cooperatively to apply sound network management principles by invoking network management controls to alleviate or to prevent congestion.

MFS and Pacific will cooperatively plan and implement coordinated repair procedures to ensure customer trouble reports are resolved in a timely and appropriate manner.

XIII. FORCE MAJEURE

Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation, strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event, the Party affected shall, upon giving

prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its best efforts to avoid or remove the cause of non-performance and both parties shall proceed to perform with dispatch once the causes are removed or cease.

XIV. LIMITATION OF LIABILITY

Except as otherwise provided herein, neither Party shall be liable to the other in connection with the provision of use of services offered under this Agreement for indirect, incidental, consequential, reliance or special damages, including (without limitation) damages for lost profits, regardless of the form of action, whether in contract, indemnity, warranty, strict liability, or tort, including (without limitation) negligence of any kind.

XV. ASSIGNMENT

This Agreement may not be assigned by either Party without 60 days advance written notice and the written consent of the other Party, provided neither Party shall unreasonably withheld such consent. However, no consent will be required in the event of assignment to an affiliate or subsidiary.

XVI. DEFAULT

If either Party default in the payment of any amount due hereunder, or if either Party violates any other provision of this Agreement, and such default or

violation shall continue for thirty days after written notice thereof, the other Party may terminate this Agreement forthwith by written instrument. The failure of either Party to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment of its part of any such provision, but the same shall, nevertheless, be and remain in full force and effect.

Notwithstanding the Limitation of Liabilities provision set forth above, the Parties agree that should Pacific under fill the Basic Link orders in a given month by the larger of (a) 500 Basic Links ordered by MFS or (b) 25% of the Basic Links ordered by MFS (provided that for the months April, May, June, July, and August, 1996 said ordered amount shall never be higher than the Link caps for those months), and such failure is due in no part to the actions or inactions of MFS, that this would give rise to damages which would be impractical or extremely difficult to determine. In such event, MFS shall give written notice to Pacific of the failure, and Pacific shall have 30 days after receipt of such notice to cure the defect by providing the number of Basic Links ordered by MFS, consistent with the monthly Link caps provided herein. If 30 days following such notice Pacific has failed to provide the number of Basic Links necessary to cure the defect, Pacific shall pay to MFS a daily liquidated damages amount of \$7,500 for each day that the amount necessary to cure the defect remains unfilled. Further accruals of this daily penalty shall terminate when either Party terminates the Agreement pursuant to Section XI.

XVII. NONDISCLOSURE

- A. All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data, (i) furnished by one Party to the other Party dealing with customer specific, facility specific, or usage specific information, other than customer information communicated for the purpose of publication or directory database inclusion, or (ii) in written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary", or (iii) communicated orally and declared to the receiving Party at the time of delivery, or by written notice given to the receiving Party within ten (10) days after delivery, to be "Confidential" or "Proprietary" (collectively referred to as "Proprietary Information"), shall remain the property of the disclosing Party.
- B. Upon request by the disclosing Party, the receiving Party shall return all tangible copies of Proprietary Information, whether written, graphic or otherwise, except that the receiving Party may retain one copy for archival purposes.
- C. Each Party shall keep all of the other Party's Proprietary Information confidential and shall use the other Party's Proprietary Information only for